

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

GE LIGHTING SOLUTIONS, LLC,

Plaintiff,

v.

**LIGHTING SCIENCE GROUP
CORPORATION,**

**Defendant and
Counterclaim Plaintiff.**

) Civil Action
) Case No.: 1:12-cv-03132
)
) JUDGE DAN AARON POLSTER
)
) JURY TRIAL DEMANDED
)
) **LIGHTING SCIENCE GROUP**
) **CORPORATION’S RESPONSE TO**
) **GE LIGHTING SOLUTIONS, LLC’S**
) **MOTION TO CONSOLIDATE AND**
) **REASSIGN**

Defendant Lighting Science Group Corporation (“LSG”) submits this response to Plaintiff GE Lighting Solutions, LLC’s (“GE Lighting”) Motion to Consolidate filed in three actions, one of which is pending before this Court: *GE Lighting Solutions, LLC v. CRS Electronics Inc.*, Case No. 1:12-cv-3133-PAG, *GE Lighting Solutions, LLC v. Lighting Science Group Corporation* (“LSG”), Case No. 1:12-cv-3132-DAP, and *GE Lighting Solutions, LLC v. Feit Electric Company, Inc.* (“Feit”), Case No. 1:12-cv-3134-PAG. The aforementioned three Defendants, CRS, LSG and Feit, represented by the same counsel, do not oppose a motion seeking consolidation of these related cases¹ before this Court through at least any *Markman* hearing.

The procedural history for these three related cases is as follows:

1. *GE Lighting Solutions, LLC v. CRS Electronics Inc.*, Case No. 1:12-cv-3133-PAG: GE Lighting filed its Complaint on December 28, 2012. (D.I. 1) Defendant CRS filed its

¹ GE Lighting’s Complaint in all three cases alleges that the defendant has infringed U.S. Patent Nos. 6,787,999 (“the ‘999 patent”) and 6,799,864 (“the ‘864 patent”).

Answer, Defenses and Counterclaims with Judge Patricia Anne Gaughan on Tuesday, February 12, 2013. (D.I. 12)

2. *GE Lighting Solutions, LLC v. Lighting Science Group Corporation*, Case No. 1:12-cv-3132-DAP: GE Lighting filed its Complaint on December 28, 2012. (D.I. 1) Defendant LSG filed its Answer, Defenses and Counterclaims with this Court on Wednesday, February 13, 2013. (D.I. 12)

3. *GE Lighting Solutions, LLC v. Feit Electric Company, Inc.*, Case No. 1:12-cv-3134-PAG: GE Lighting filed its Complaint on December 28, 2012. (D.I. 1) Defendant Feit will be filing its Answer with Judge Patricia Anne Gaughan on or before February 25, 2013.

The three Defendants, CRS, LSG and Feit, do not oppose a motion seeking consolidation of these related cases through at least any *Markman* hearing that may occur on the '999 and '864 patents. However, if the cases proceed to trial, the above named Defendants may request separate trials against Plaintiff as opposed to one consolidated trial. As GE Lighting explained in its Motion to Consolidate, patent infringement cases involving the same questions of law for purposes of claim construction can be consolidated for *Markman* proceedings. *Kohus v. Toys "R" Us, Inc.*, No. C-1-05-517, -671, 2006 WL 1476209, at *1 (S.D. Ohio May 25, 2006). However, such cases do not also need to be consolidated for trial. *See id.* at *2.

While consolidation is being considered by the Court, each of the above named Defendants requests that the Case Management Conference pursuant to L.R. 16.3 and the Local Patent Rules for the United States District Court for the Northern District of Ohio, including, but not limited to, the commencement of discovery under L.P.R. 1.3 and Patent Disclosure deadlines (*e.g.*, L.P.R. 3.1 and 3.5), be held in abeyance until this consolidation issue has been resolved.

Dated: February 15, 2013

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CERTIFICATE OF SERVICE

I hereby certify that on February 15, 2013, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

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